App F IX 4

Previous References

1951-52
( )
MR

File No 92-51
Serial Nos. 75 76

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

Part B for Sept. 1951

SUBJECT

Levy of octori duty on tobacco in Periyapatna Municipality.

P14/E To the Govt Mys

L. 6177 dt 10/9/51

20/11/51

SS 449/Ord
50-57

For the D C Mysore Dt
Letter no DD PQ 62/50 57 dated 15 3 51
Requests orders re: the levy of octroi
duty of Rs 1206/- on Tobacco stored
by Sri H M Channabasappa, in
Periyapatna town Municipality

Submitted

D The facts of the case are that
Sri H M Channabasappa stored 1206 mds
of Tobacco in Periyapatna during 1947
Subsequently the Tobacco was removed to
K R Nagar when storing was not brought
to the notice of the Municipality nor was
~~obtained~~ any permit obtained for storing or exporting
to the storing was ~~not~~ given for omitting
Reg E to octroi, the Periyapatna Municipality
to levy octroi on Tobacco Sri H M
Channabasappa protested against the levy
of octroi on the ground that the tobacco
was ~~not~~ not consumed but the place but was
Reg D meant for export the matter was
referred to the Government Pleader
for opinion as required under the Madras
Rules in minor Municipalities The
Govt Pleader admits that the tobacco
is liable to octroi but it may be waived
as there are no Rules.

8549/Rul 125

Levy of Octroi duty on Tobacco stored by Sri H N Channabasappa in Periyapatna Town Municipality

The Periyapatna Town Municipal Council has applied Government Orders and applied for sanction to levy octroi on Tobacco vide its resolution dated 31.7.1950 The D C, Mysore Rs, is also of opinion that as Sri Channabasappa ~~has~~ did not satisfy the Municipal authorities as required under Section 4 and 7 and 25 of Section (61)

Reg T

Reg A

2) Under the above Town Municipal Council has not framed Bye-laws the Tobacco is liable to be levied as required by the Rule 4, 7 and 25 of the Act The D C Mysore Rs states that no Penalty may be enforced but and seeks orders in the matter of interpreting Section 61. It is for orders

28/3

29/3

5 The Law Secy may be consulted

L S & Secy) MS 5/4

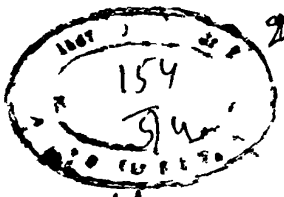
6) For favour of Remarks

Law Secy) MS 6/4/51

MS 6/4

Law Secy

9/4 MS 9/4



8549/Rel

Levy of octroi duty on Tobacco stored by Sri H M Channabasappa in Periyapatna Town Rely

217

Laws

7 The specific legal point on which opinion is required is not clear The Administrative Secretariat may kindly clarify the same

Asst. Secy (Municipal) 12/4

8 The legal opinion is required on the following points—

"Whether the proposed levy of octroi on Tobacco stored by Sri H M Channappa Channabasappa at Periyapatna, as contemplated under section 61 of the Act is in order"

12/4

Under Secy (Law Section)

for remarks with reference to para 6 !

14/4

16/4

9) By reason of sec 61(1)(a) of the Minor Municipalities Act, read with the Rules framed by Government (vide Sl A & B), an octroi on animals or goods or both brought within the limits of the Municipality for consumption or use within those limits, would be leviable by the Municipality This would appear to imply that no octroi could be levied on goods merely passing through the Municipal limits, for example, for purposes of export In the present case

217 Law

Levy of octroi on tobacco - Storage —

It is stated that the tobacco in question was brought for storage and ~~xxxx~~ later~~x~~ on exported to some other place It is not clear if storage was intended for purposes of curing the tobacco or in any way intended to ~~xxxxxx~~ improve the marketable quality of the goods or enhance their value If it were so intended and if ~~the~~ was its value enhanced thereby, notwithstanding the fact that the said tobacco was not consumed within the municipal limits ~~in the literal sense~~, it would appear that such storage could be construed to come within the meaning of the word use (in a wide sense), ~~definition of use~~, in which case it would be come liable to octroi. If the storage of the tobacco was not intended in any way to enhance its value or improve the quality and was meant merely for purposes of stocking it in a warehouse or in the course of transit, it may not amount to consumption or use as conterplated under sec 61 (1)(a) This appears, however to be a matter for verification and decision on the administrative side

"B"

A

NM 25/4

Lawsey) misc/4

10) I agree with 'A' —

Secy, Leg)

26/4

11) The DC may be intimated on the lines of the Law Secy and he may be asked to enquire & depose further about "B"

d'Sa Mascarenhas) 27/4/57

27/4

4/5

4/4 mis 4/4

8349/m Levy position of Tobacco Storage at Renapatna

13) Letter with a draft to apply

" " 14/8/51 " " 14) Issue at once MS 8/5

Note D C Mysore

L 1337-52/16357 11/5

Calls for further information

From the D C Mysore

Letter no DS PR 62/SDS of 5'7-51

forwards a report

12) It is stated that the purpose for which the Tobacco store was not informed to the Asst C of the Tobacco being a Curer and the storage appears to improve the marketable quality of the goods or enhance their value It is for orders with reference to paras 9-12 supra

23/8 If in the circumstances reported by the D C, the tobacco in question is liable to excise duty according to the legal opinion (para 9 supra) dated 26.4.51 the appln the refund may be admitted accordingly.

85495 2409/one

Levy of octroi on Tobacco stores by
Sri H.P. Chowdhary has appeared at Pondicherry

on the lines of the legal opinion

P.Z. 26/7 17 paras 17-1-58 Sd/-

Legal Secy 26/7

Govt of the Minister
for Law & Social Welfare
Dy No 26
Date 31/7/58

Govt LSG)

28/7

25/8/58

28/8

(8) 30/7

(9) Send with a draft reply accordingly for approval

30/8

(10) Issue

Sd/-

Secy to D-C Pondicherry

L 6177/one/58-1 92-57 76 dt 10.9.57

Rules read. Levy is in order

No DS P R 62/50-51
Encl Records

Office of the Deputy Commissioner,
Mysore District,
Dated, Mysore the 15th March 1951

To

Sri L S Swamir than, B[illegible], I.A.S.,
Secretary to the Government of [illegible],
Local-Self Government Department,
Bangalore

8549 SECRETARIAT 21 MAR 1951 GENERAL BRANCH

Sir,

Levy of octroi duty of Rs 1206/- on Tobacco stored by Sri H M Chennabasappa in Periyapatna Municipality

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In forwarding herewith the entire file of correspondence ending with Mysore Sub Division Officer's report No R C 124 dated 21st October 1950 on the subject mentioned above, I write to state that the contention of Sri H M Chennabasappa is that tobacco was brought into Periyapatna Municipal limits with a view to export it outside, the Municipality claims the octroi because the commodity was brought into Municipal limits without giving notice to the Municipality authorities and was stored there for months together

Government have issued a set of rules in their No 6125/A1 160-34-4 dated 12th February 1936 to be followed in Octroi Municipalities under Section 61 and other Sections of Minor Municipalities Act According to Rules 4 and 7, the importer should give information to the Octroi Officer about the arrival of the dutiable articles and as per rule 7, he should obtain an export permit if the article is intended to be immediately removed outside the said limits As a rule, octroi has to be paid and then refund claimed, but in this case Sri Chennabasappa did not give notice to the Municipality about the import and the quantity he imported and the place where he stored it, nor did he

Flag A

he export it immediately on arrival He stocked it at Periyapatna for over 4 months I- brought according to the record, 1206 maunds, but exported 217 bags with the permission of the Excise authorities Thus Sri Channabasappa did not satisfy the Municipal authorities that he exported what all he had brought He has not complied with rule 25 either The circumstances indicate that though the article was not consumed at - Periyapatna, it is sought to be with view to carry on business in tobacco The claim of Sri Channabasappa if conceded, will create a bad precedent

Key B

In my opinion, Sri Channabasappa would have been within rules, if he had notified the arrival of the article into the Municipal limits and taken out the export permit from the Municipality and extended the time, if necessary In the circumstances of the case, Sri Channabasappa is liable to octroi duty But no penalty need be enforced I have referred the matter to Government for orders, because the question of interpretation of Section 61 and the principles underlying are involved

The entire file of connected papers is sent herewith for reference and early return

Yours faithfully,

for DEPUTY COMMISSIONER,
Mysore District

(C Dep. Commissioner absent from Head Quarters)

MRS

G R S App F C 3

GENERAL AND REVENUL SECRETARIAT

(*Continuation sheet draft form*)

L 1337/14 S S

To

The D C. Nyeri

Sr,

Adverting to your letter No. DS PP 82/90-57 dated 15-3-57 relating to the levy of octroi duty on Tobacco stored by Sri H.P. Chandrabhan in Nyeri Municipality, I am directed to enquire whether his storage was intended for purposes of curing the Tobacco or in any way intended to improve the marketable quality of the goods or enhance their value.

A very early reply is requested.

Your faithfully

PMM for RS

WD 06819—GPB—20 000—26 7 49

No D3 P R 62/50-51 OFFICE OF THE DEPUTY COMMISSIONER,
Enc One Mysore District
Dated, Mysore the 5th July 1951

To ML 92-51-75

SRI M S SWAMINATHAN, M A ,B S
Secretary to Government of Mysore
Local Self Government Department,
B a n g a l o r e

SECRETARIAT 12 JUL 19 2409 MUNICIPAL BRANCH

Sir,

Subject - the levy of Octroi Duty on tobacco stored by Sri H M Chennabasappa in Periapatna

---

With reference to your letter No L 1337 dated 14-5-1951 on the subject mentioned above, I write to state that the President, Minor Municipal Council, Periyapatna reports in his No C86/48 dated 7-6-51 that the Municipal authorities were not informed of the purpose for which the tobacco was stored and that the tobacco stored was a cured one and that it was subsequently removed.

The letter of the President in the matter accompanies

Yours faithfully,

DEPUTY COMMISSIONER,
MYSORE DISTRICT

TMK 2

DC C 86/48-49

Office of the President
Municipal Council
Periyapatna 7-6-51

To,
The Deputy Commissioner
Mysore District Mysore

Sir

With reference to your memo no A 3
R 62/50 51 of 28 5-1951, I beg to state
that the purpose for which the tobacco stores
by Sri H N Channabasappa was not
intimated to this office the tobacco that
was stored was cured tobacco which was
subsequently removed and sold

Yours faithfully
President

OFFICE OF THE DEPUTY COMMISSIONER
No
JUN 1951
MYSORE DISTT

TANG

Appendix F G—1]

SUBJECT

3 Copies

Section ML
File No 92-51
Serial No 76

Diary No of letter replied to 2405

No L 6177/ML 92 51 76
& Records 10-9-51

Publicity Office

( )

the 194

To The D C Kegalle

Sir

With reference to the Correspondence ending with your letter No DS PR 62/50-51 dated 5-7-51 relating to the levy of section duty by the Peniyapatiya market on Tobacco stored by Mr H M Channabasappa ~~on~~ ~~Penty~~ at his place I am directed to state that as the storage of Tobacco has ~~ceased~~ ceased intended to improve the marketable quality of the goods or enhance ~~the~~ value

Date of issue

Signed by

List of enclosures

Copied by

Examined by

WD 01000—GPB—2000—9 1 48

not withstanding the
fact that the said
Tobacco was not
Consumed within the
Municipal limits, it
would appear that such
Storage could be
Construed to come within
the meaning of the word
"use" (in a wide sense),
in which case it would
become liable to octroi
duty as contemplated
under section 61(1)(a)
of the Uttar Pradesh Regulation
Act of 1953 and the Rules
framed thereunder
The Record forwarded with the above letter
are herewith returned Yours faithfully

for Secretary

GOVERNMENT OF MYSORE

General and Revenue Secretariat

No L 61 74/Jud 92 51 76 Dated Bangalore 10 September 1951
E Records

From

The Secretary to the Government of Mysore
Local Self Government Department
Bangalore

To

The Deputy Commissioner,
Mysore District,
Mysore

Sir

With reference to correspondence ending with your letter No D3 P.R 62/50-51 dated the 5th July 1951 relating to the levy of octroi duty by the Periyapatna Minor Municipal Council on tobacco stored by Sri I Channabasappa at the place, I am directed to state that as the storage of tobacco was intended to improve the marketable quality of the goods or enhance its value, notwithstanding the fact that the said tobacco was not consumed within the Municipal limits, it would appear that such storage could be construed to come within the meaning of the word "use" (in a wide sense) in which case it would become liable to octroi duty as contemplated under Section 61(1)(a) of the Minor Municipalities Regulation of 1933 and the rules framed thereunder

2 The records received with the aoove letter are returned herewith

Yours faithfully,

For Secretary to Government,
L S G Department

LMS 3 6/9